not forseen." *Hurst* v. *Warner,* 102 Mich. 238, authorizing state board of health to make rules regarding inspection and disinfection of baggage coming from localities where contagious diseases were shown, to the satisfaction of the board, to exist. In *Train* v. *Boston Disinfecting Co.,* 144 Mass. 523, under a statute authorizing boards of health to make regulations for public health, etc., and respecting articles capable of conveying infection or contagion, board in question was allowed to make and enforce a regulation requiring all rags arriving from a foreign port to be disinfected. It was stated: "quarantine laws are a familiar exercise of the police power of a state—and the making of regulations for their enforcement has always been entrusted to subordinate boards." In *Jacobson* v. *Mass.,* 197 U. S. 11, a Massachusetts statute was upheld which vested authority in local boards of health to enforce compulsory vaccination when, in their discretion, such was deemed necessary. The principle involved in the case-at-hand is by no means new, but it may be of interest in regard to the rather novel facts to which it is applied. This case, it seems, is only one of many, at the present time, indicating a tendency to allow more latitude in the delegation of discretionary powers.

DEEDS—DELIVERY.—Grantee appeals from the decree of the lower court setting aside a deed as not having been validly delivered. Grantor deposited deed with third person to be delivered to the grantee in the event that the grantee survived the grantor. *Held,* title did not pass, for a deposit of a deed to be delivered to grantee upon grantor's death must be unconditional and independent of any contingency in order to be valid. *Weber* v. *Brak,* (Ill., 1919) 124 N. E. 654.

In *Bury* v. *Young,* 98 Cal. 446, the court referring to deposits of deeds to be delivered on grantee's death said, "The essential requisite to the validity of a deed transferred under circumstances as indicated in this case is that when it is placed in the hands of the third party it has passed beyond the control of the grantor for all time." Apparently the reason for the rule is that if the grantor retains the power to recall the deposit it is regarded as testamentary being ambulatory until the grantor's death and thus can only be effected by an instrument in writing in conformity with the statute for the disposition of real estate by will. *Linn* v. *Linn,* 261 Ill. 606; *Bogan* v. *Sweringen,* 199 Ill. 454. See 17 MICH. L. REV. 413. The reason for the rule does not apply, it would seem, to the facts of the principal case where it should be noted that the contingency upon the happening of which the grantor is to regain control is wholly outside the control of the grantor. The doctrine that the delivery must divest the grantor of his power to control for all time has never been applied to the case of a delivery in escrow although the reason is equally applicable. That a delivery in escrow, where not only the grantor parts with his legal power to control the deed but the grantee acquires the legal power to control is sufficient, is universally conceded. *Wheelright* v. *Wheelright,* 2 Mass. Rep. 447. It is equally well settled according to the overwhelming weight of authority that a deposit with a third person where the grantor retains the right to repent is not a

valid delivery for neither the grantor has relinquished his right to control the deed, nor has the grantee acquired control. *Stevens* v. *Stevens,* 256 Ill. 140; *Wortz* v. *Wortz,* 128 Minn. 251. *Newton* v. *Bealer,* 41 Ia. 334, *contra.* It would seem that the facts of the principal case where the contingency is wholly outside the control of the grantor has a closer logical relationship to a delivery in escrow than to the case where the grantor reserves the power to recall; that the criterion of whether there has been a valid delivery should be whether the grantor has relinquished control and not whether the grantee has gained control. In *Ruggles* v. *Lawson,* 13 Johns. (N. Y.) 285 the court decided a deposit by a grantor fatally sick, delivery conditional upon his failure to execute a will before death, was a valid delivery. It is submitted that the New York decision, though not harmonious with the present authorities, is more logical and better calculated to carry out the intent of the parties. In the principal case the court conceding that delivery is merely a question of determining the intent of the grantor, denies that a conditional delivery unless in escrow is sufficient to show such an intention.

DOMICILE—CHANGE.—Plaintiff owned two residences in Massachusetts, his principal business interests being there, having habitually spent the whole year in Massachusetts. Plaintiff also owned an interest in a residence in Newport, R. I., to which he notified the taxing authorities of both states that he had removed, and he voted and was taxed there, and did other acts showing the strongest desire to be considered domiciled in Newport. He and his family actually spent a few weeks each year in Newport. The tax commissioner of Massachusetts having assessed taxes on plaintiff, he brought a bill in equity to restrain the collection of the same. *Held,* that the plaintiff had not changed his domicile from Massachusetts. *Agassiz* v. *Trefry,* (D. C., Mass., 1919) 260 Fed. 226.

In view of the modern shifting and intricate states of business and family life, which are being ever more often severed by state lines, where one person may have residences in several places, the question of domicile often necessarily assumes a perplexity quite unknown in former days of simple living and business arrangements. In the principal case there was actual physical presence in the new domicile, plus desire to be considered as having changed domicile to Newport. However, the court seems to draw a distinction between desire and intent, making "desire" a part of intent, requiring for "intent" "desire" plus a bona fide reasonable basis therefor. And the holding of the court in this case in effect means that the court failed to find bona fide intent to change domicile. The court in the principal case supports itself by *Mitchell* v. *U. S.,* 21 Wall. 350; *Gilman* v. *Gilman,* 52 Me. 165; *In re Sedgwick,* 223 Fed. 655. *Contra, Barron* v. *Boston,* 187 Mass. 168. And it would seem both consistent with the law of domicile, and of value in aiding a state to collect taxes fairly due it, to determine as matter of legal conclusion, either as was done above, that there was in fact not the requisite "residence," or, approaching from the other side, that there was no bona fide intent to make that place the principal home. See further, *Lowry* v. *Bradley,* 1 Speer's Eq. (S. C.) 1; *Del. Co.* v. *Petrowsky,* 250 Fed. 554.